

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0637-MSW-E TCEQ ID: RN102459690 CASE NO.: 31509
RESPONDENT NAME: MAVERICK COUNTY

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Behind the Loma Bonita Subdivision between Bianca Street and Christian Street, Eagle Pass, Maverick County</p> <p>TYPE OF OPERATION: Unauthorized disposal site</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired April 21, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933 TCEQ Regional Contact: Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052 Respondent: Honorable Jose Aranda, County Judge, Maverick County, 500 Quarry Street, Eagle Pass, Texas 78852 Respondent's Attorney: Mr. Ricardo Ramos, Maverick County Attorney, 931 Webster Street, Eagle Pass, Texas 78852</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review </p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 8, 2008</p> <p>Date of NOE Relating to this Case: April 10, 2008</p> <p>Background Facts: The EDP RP was filed July 3, 2008. The agreed order was signed February 5, 2009.</p> <p>Current Compliance Status: The Respondent paid all past-due fees. The Respondent has not yet submitted certification of compliance for Ordering Provision no. 1.</p> <p>MSW:</p> <ol style="list-style-type: none"> Failed to dispose of municipal solid waste at an authorized facility, and failed to comply with ordering provisions for Docket No. 2006-1812-MSW-E [30 TEX. ADMIN. CODE § 330.15(c) and TCEQ Docket No. 2006-1812-MSW-E, Ordering Provisions IV. 2.b]. Failed to pay late fees for Sludge Haulers fees for TCEQ FA Account No. 0803551H [30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702]. 	<p>Total Assessed: \$3,810</p> <p>Total Deferred: \$0</p> <p> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Paid/ Due to General Revenue: \$210/\$3,600</p> <p>The Respondent paid \$210 of the administrative penalty. The remaining amount of \$3,600 shall be payable in 18 monthly payments of \$200 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: Indifference to legal duty based on violation of previous agreed order.</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 90 days, ensure that all unauthorized waste at the Site, including buried waste, is removed and properly disposed of at an authorized facility. Within 30 days, submit payment for past-due fees, including any associated penalties and interest. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions nos. 1 and 2.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision March 8, 2008

DATES	Assigned	14-Apr-2008		
	PCW	16-Apr-2008	Screening	16-Apr-2008 EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	Maverick County		
Reg. Ent. Ref. No.	RN102459690		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	31509	No. of Violations	2
Docket No.	2008-0637-MSW-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Cynthia McKaughan
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	27% Enhancement	Subtotals 2, 3, & 7	\$810
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Notes	The Respondent has one 1660 Agreed Order, one NOV for same or similar violations, and one NOV for dissimilar violations.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes	The Respondent does not meet the good faith criteria.
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	0% Enhancement	Subtotal 6	\$0
Total EB Amounts	\$27	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$834		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,810
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$3,810
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,810
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DEFERRAL	0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$3,810
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Screening Date 16-Apr-2008

Docket No. 2008-0637-MSW-E

PCW

Respondent Maverick County

Policy Revision 2 (September 2002)

Case ID No. 31509

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN102459690

Media [Statute] Municipal Solid Waste

Enf. Coordinator Cynthia McKaughan

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent has one 1660 Agreed Order, one NOV for same or similar violations, and one NOV for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 16-Apr-2008 Respondent Maverick County Case ID No. 31509 Reg. Ent. Reference No. RN102459690 Media [Statute] Municipal Solid Waste Enf. Coordinator Cynthia McKaughan Violation Number <input type="text" value="1"/>	Docket No. 2008-0637-MSW-E <div style="text-align: right;">PCW</div> <div style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision March 8, 2008</div>																		
Rule Cite(s) 30 Tex. Admin. Code § 330.15(c); TCEQ Docket No. 2006-1812-MSW-E, Ordering Provisions IV. 2.b.																			
Violation Description Failed to dispose of municipal solid waste ("MSW") at an authorized facility and failed to comply with ordering provisions for Docket No. 2006-1812-MSW-E, as documented during an investigation conducted on April 8, 2008. Specifically, Maverick County did not properly remove and dispose of 30 cubic yards of MSW as required by Ordering Provision IV.2.b.																			
Base Penalty <input style="width: 100px;" type="text" value="\$10,000"/>																			
>> Environmental, Property and Human Health Matrix																			
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Harm Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table> <div style="text-align: right; margin-top: 5px;"> Percent <input style="width: 50px;" type="text" value="10%"/> </div>		Release	Major	Harm Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	x		Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Release	Major	Harm Moderate	Minor															
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	x															
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>															
>> Programmatic Matrix																			
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table> <div style="text-align: right; margin-top: 5px;"> Percent <input style="width: 50px;" type="text" value="0%"/> </div>		Falsification	Major	Moderate	Minor			<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>							
	Falsification	Major	Moderate	Minor															
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.																		
Adjustment <input style="width: 100px;" type="text" value="\$9,000"/>																			
<input style="width: 100px;" type="text" value="\$1,000"/>																			
Violation Events																			
<div style="display: flex; justify-content: space-between;"> <div> Number of Violation Events <input style="width: 50px;" type="text" value="3"/> </div> <div> <input style="width: 50px;" type="text" value="270"/> Number of violation days </div> </div> <div style="margin-top: 10px;"> <div style="display: flex; align-items: center;"> <div style="text-align: right; font-size: small; margin-right: 5px;">mark only one with an x</div> <table border="1" style="border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td style="padding: 2px;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td><input type="text"/></td></tr> </table> </div> <div style="margin-left: 20px; text-align: right;"> Violation Base Penalty <input style="width: 100px;" type="text" value="\$3,000"/> </div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px; text-align: center;"> Three quarterly events are recommended from June 29, 2007 (effective date of the Order) to April 16, 2008 (screening date). </div>		daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>						
daily	<input type="text"/>																		
monthly	<input type="text"/>																		
quarterly	x																		
semiannual	<input type="text"/>																		
annual	<input type="text"/>																		
single event	<input type="text"/>																		
Economic Benefit (EB) for this violation																			
<div style="display: flex; justify-content: space-between;"> <div> Estimated EB Amount <input style="width: 100px;" type="text" value="\$27"/> </div> <div> Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$3,810"/> </div> </div>																			
<div style="text-align: right;"> This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$3,810"/> </div>																			

Economic Benefit Worksheet

Respondent: Maverick County

Case ID No: 31509

Reg. Ent. Reference No: RN102459690

Media: Municipal Solid Waste

Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal	\$834	8-Apr-2008	1-Dec-2008	0.6	\$27	\$27	\$27
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost for removing approximately 30 cubic yards of MSW at \$27.80 per cubic yard. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$834

TOTAL

\$27

Screening Date 16-Apr-2008

Docket No. 2008-0637-MSW-E

PCW

Respondent Maverick County

Policy Revision 2 (September 2002)

Case ID No. 31509

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN102459690

Media [Statute] Municipal Solid Waste

Enf. Coordinator Cynthia McKaughan

Violation Number 2

Rule Cite(s)

Tex. Water Code § 5.702; 30 Tex. Admin. Code § 312.9

Violation Description

Failed to pay late fee for Sludge Haulers ("WMS") fees for TCEQ FA Account No. 0803551H.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

No penalty is calculated for this violation.

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing cycle.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent: Maverick County

Case ID No. 31509

Reg. Ent. Reference No. RN102459690

Media: Municipal Solid Waste

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	N/A	\$0
Record Keeping System				0.0	\$0	N/A	\$0
Training/Sampling				0.0	\$0	N/A	\$0
Remediation/Disposal				0.0	\$0	N/A	\$0
Permit Costs				0.0	\$0	N/A	\$0
Other (as needed)				0.0	\$0	N/A	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600640015	Maverick County	Classification: AVERAGE	Rating: 4.01
Regulated Entity:	RN102459690	MAVERICK COUNTY ROAD AND BRIDGE	Classification: AVERAGE	Site Rating: 20.50
ID Number(s):	SLUDGE	REGISTRATION	23551	
Location:	HWY 57	Rating Date: 9/1/2007 Repeat Violator: NO		
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	April 14, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 14, 2003 to April 14, 2008.			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Cynthia McKaughan Phone: (512) 239-0735

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 06/29/2007

ADMINORDER 2006-1812-MSW-E

Classification: Major

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failed to dispose of municipal solid waste at an authorized facility.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 06/17/2004 (273988)

2 01/03/2006 (449927)

3 05/01/2006 (463752)

4 02/13/2008 (615807)

5 04/10/2008 (641917)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 01/04/2006 (449927)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 312, SubChapter G 312.144(d)

Description: Failure to provide sight glass or provide alternative method of volume measurement.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 312, SubChapter G 312.145

Description: Failure to provide trip tickets with required information.

Date: 02/04/2008 (615807)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failed to dispose of municipal solid waste at an authorized facility.

Self Report? NO

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B)

Rqmt Prov: ORDER OPs 2.a.-2.c.

Description: Failed to comply with the Ordering Provisions of Commission Order Docket No.
2006-1812-MSW-E.

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MAVERICK COUNTY;
RN102459690

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0637-MSW -E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Maverick County ("the County") under the authority of TEX. WATER CODE chs. 5 and 7, and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and the County, represented by Mr. Ricardo Ramos, Maverick County Attorney, presented this agreement to the Commission.

The County understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the County agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the County.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The County owns and operates an unauthorized disposal site located behind the Loma Bonita Subdivision between Bianca Street and Christian Street in Eagle Pass, Maverick County, Texas (the "Site".)
2. The Site involves the management and/or disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. During an investigation conducted on April 8, 2008, a TCEQ Laredo Regional Office investigator documented that the County:
 - a. Failed to dispose of municipal solid waste at an authorized facility and failed to comply with ordering provisions for Docket No. 2006-1812-MSW-E; and
 - b. Failed to pay late Sludge Haulers fees for TCEQ FA Account No. 0803551H.
4. The County received notice of the violations on or about April 15, 2008.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, the County is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., the County failed to dispose of municipal solid waste at an authorized facility and failed to comply with ordering provisions for Docket No. 2006-1812-MSW-E, as documented during an investigation conducted on April 8, 2008, in violation of 30 TEX. ADMIN. CODE § 330.15(c) and TCEQ Docket No. 2006-1812-MSW-E, Ordering Provisions IV. 2.b.
3. As evidenced by Finding of Fact No. 3.b., the County failed to pay late fees for Sludge Haulers fees for TCEQ FA Account No. 0803551H, in violation of 30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the County for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of three thousand eight hundred ten dollars (\$3,810.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The County has paid two hundred ten dollars (\$210.00) of the administrative penalty. The remaining amount of three thousand six

hundred dollars (\$3,600.00) of the administrative penalty shall be payable in 18 monthly payments of two hundred dollars (\$200.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If the County fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the County to meet the payment schedule of this Agreed Order constitutes the failure by the County to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. It is, therefore, ordered by the TCEQ that the County pay an administrative penalty as set forth in Conclusion of Law No. 5, above. The payment of this administrative penalty and the County's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Maverick County; Docket No. 2008-0637-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The County shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Order, the County shall:
 - i. Ensure that all unauthorized waste at the Site, including buried waste, is removed and properly disposed of at an authorized facility; and,

- ii. Within 30 days submit payment for fees, including any associated penalties and interest and with the notation, "Maverick County, Account No. 0803551H," in accordance with 30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702 to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, TX 78711-3088

- b. Within 45 days after the effective date of this Order, the County shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The County shall submit copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Rose Luna-Pirtle Section Manager
Texas Commission on Environmental Quality
Laredo Regional Office
707 East Calton Rd., Ste 304
Laredo, Texas 78041-3887

3. The provisions of this Agreed Order shall apply to and be binding upon the County. The County is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site referenced in this Agreed Order.
4. If the County fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the County's failure to comply is not a violation of this Agreed Order. The County shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The County shall notify the Executive Director within seven days after the County becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the County shall be made in writing to the Executive Director. Extensions are not effective until the County receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the County if the Executive Director determines that the County has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the County in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

10. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to the County, or three days after the date on which the Commission mails notice of the Order to the County, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

6/17/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or the County's failure to timely pay the penalty amount, may result in:

- A negative impact on the County's compliance history;
- Greater scrutiny of any permit applications submitted by the County;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against the County;
- Automatic referral to the Attorney General's Office of any future enforcement actions against the County; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

2/5/09
Date

Jose A. Aranda
Name (Printed or typed)

County Judge
Title

Authorized Representative of Maverick County